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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,614	04/18/2007	Shigeru Nemoto	KITO11.001APC	3898
29995 7590 02/26/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
HALL, DEANNA K				
ART UNIT		PAPER NUMBER		
3767				
NOTIFICATION DATE		DELIVERY MODE		
02/26/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/580,614

Applicant(s)

NEMOTO ET AL.

Examiner

DEANNA K. HALL

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GG/IB)
Paper No(s)/Mail Date 9/11/08 11/13/06 5/24/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply filed on 11/20/09 where applicant elected for examination Species 4, claims 9-12.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 9/11/08; 11/13/06; 5/24/06 are in compliance with the provisions of 37 CFR 1.97(b). Accordingly, the IDSs are being considered by the Examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim elements “analyzing means for” “abnormality determining means for” “alarm notifying means for” “liquid determining means for” liquid outputting means for” “injection control means for” are means (or step) plus function limitations that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 09-131400 ("400") in view of Battiato et al. (US 5,925,022) ("Battiato").

400 discloses a chemical liquid injector 4 including a cylinder member and a piston member, a cylinder holding mechanism 5, a piston driving mechanism 7, 10, 12. Further, there is a bubble sensor 3 (abnormality determining means) positioned on an outer surface of the cylinder member and alarm notifying means, once the abnormality is determined the injection may be stopped if necessary (injection control means as required by claim 12), [0013-0022], Figs. 1-3.

The presence of an extension tube from the injector 4 to the patient is well known in the art.

400 discloses the invention as substantially claimed (see above). However, 400 does not specify details of its bubble sensor 3. Battiato, in the analogous art, teaches that air bubble detection may be performed by an ultrasonic source and ultrasonic detector coupled to the neck of the syringe C20L66-C21L1. Battiato further teaches that the air bubble detector may be mounted on locations on the syringe other than on the neck C21L3-4, hence on the extension tube. Also, the resonance can be analyzed to detect when air has been evacuated from the syringe after filing C21L4-8. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have made the bubble sensor of 400 operate by an ultrasonic source and detector as taught by Battiato to prevent injection of air into a patient.

8. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over 400 in view of Battiato further in view of Sinha (US 6,644,119).

400/Battiato discloses the invention as substantially claimed (see above). Further, the injector 4 could be considered the liquid outputting means. However, this combination does not directly disclose liquid determining means. Sinha, in the analogous art teaches liquid determining means, see abstract, based on resonance characteristics. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to determine the liquid from the resonance characteristics as taught by Sinha since the combination of 400/Battiato already possesses the structure necessary to do so.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEANNA K. HALL whose telephone number is (571)272-2819. The examiner can normally be reached on M-F 9:00am-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Deanna K. Hall/
Examiner, Art Unit 3767
2/23/10
/Kevin C. Sirmons/
Supervisory Patent Examiner, Art Unit 3767